



**CITY CLERK'S OFFICE**

275 East Olive Avenue • Burbank, California • 91502  
818-238-5851 • fax 818-238-5853

October 3, 2012

Sachi A. Hamai, Executive Officer  
Los Angeles County Board of Supervisors  
500 West Temple Street, Room 383  
Los Angeles, CA 90012

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

**59      October 30, 2012**

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

Dear Ms. Hamai:

Enclosed please find the following documents pertaining to the City of Burbank's 2013 Municipal Elections:

- Resolution No. 28,566 consolidating precincts established by the County of Los Angeles Board of Supervisors into 42 precincts;
- Resolution No. 28,567 requesting the Los Angeles County Board of Supervisors to permit the Registrar of Voters to render election services to the City of Burbank;
- Ordinance No. 3832 ordering a Primary Nominating Election on February 26, 2013 and a General Municipal Election on April 9, 2013; and,
- Ordinance No. 3831 ordering a Special Election consolidated with our General Municipal Election on April 9, 2013, for Measure S - Special Tax to Support Sewer/Refuse Customer Assistance Programs

If you have any questions, please contact the City Clerk's office at (818) 238-5851.


Sincerely,

Zizette Mullins  
City Clerk

Enclosures

ATTEST: 10-5-12

DATE:

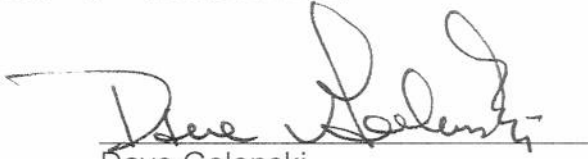
  
City Clerk  
City of Burbank, California

RESOLUTION NO. 28,566


A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
CONSOLIDATING PRECINCTS ESTABLISHED BY THE COUNTY OF LOS  
ANGELES BOARD OF SUPERVISORS INTO 42 MUNICIPAL PRECINCTS  
FOR THE 2013 PRIMARY NOMINATING AND GENERAL MUNICIPAL  
ELECTIONS.

THE COUNCIL OF THE CITY OF BURBANK RESOLVES that the 78 election  
precincts established within the City of Burbank by the Board of Supervisors of the  
County of Los Angeles are reduced to 42 precincts by consolidating said precincts, as  
hereinafter provided, thereby making a total of 42 election precincts for the conduct of  
the Primary Nominating and General Municipal Elections to be held February 26, 2013,  
and April 9, 2013, respectively, and said consolidated municipal precincts are as  
indicated on Exhibit A attached hereto and incorporated herein.

PASSED and ADOPTED this 25th day of September, 2012.

  
Dave Golonski  
Mayor of the City of Burbank

Attest:

  
Zizette Mullins, City Clerk

Approved as to Form and Legal Content  
Office of the City Attorney

  
By: Amy Albano, City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF BURBANK                )

I, Zizette Mullins, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 25th day of September, 2012, by the following vote:

AYES:           Council Members Bric, Gabel-Luddy, Gordon, Talamantes and Golonski.

NOES:           Council Members None.

ABSENT:        Council Members None.

  
Zizette Mullins, City Clerk

# Precinct Consolidation for City of Burbank 2013 Municipal Elections

22,566

| Burbank<br>Precinct No. | LA County Precincts |      |      |      |      |      |      | # of Voters |
|-------------------------|---------------------|------|------|------|------|------|------|-------------|
| 1                       | 1A                  | 1B   | 1C   | 1D   | 1E   |      |      | 1659        |
|                         | 24A                 | 24B  | 24C  | 24D  | 24E  | 24F  |      |             |
| 2                       | 2A                  | 2B   | 2C   | 2D   | 2E   | 2F   | 2G   | 2512        |
|                         | 27A                 | 27B  | 27C  | 27D  | 27E  |      |      |             |
|                         | 151A                | 151B | 151C | 151D | 151E | 151F |      |             |
| 3                       | 3A                  | 3B   | 3C   | 3D   | 3E   |      |      | 1610        |
|                         | 131A                | 131B | 131C | 131D | 131E | 131F |      |             |
| 5                       | 5A                  | 5B   | 5C   | 5D   | 5E   | 5F   |      | 808         |
| 8                       | 8A                  | 8B   | 8C   | 8D   | 8E   | 8F   | 8G   | 869         |
| 9                       | 9A                  | 9B   |      | 9D   | 9E   |      |      | 662         |
| 10                      |                     | 10B  |      |      | 10E  | 10F  | 10G  | 1114        |
|                         | 15A                 | 15B  | 15C  | 15D  | 15E  | 15F  |      |             |
| 11                      | 11A                 | 11B  | 11C  |      | 11E  |      |      | 446         |
| 12                      | 12A                 | 12B  | 12C  | 12D  | 12E  | 12F  |      | 1427        |
|                         | 32A                 | 32B  | 32C  | 32D  | 32E  | 32F  |      |             |
| 13                      | 13A                 | 13B  | 13C  | 13D  | 13E  |      |      | 2957        |
|                         | 29A                 | 29B  | 29C  | 29D  | 29E  |      |      |             |
|                         | 137A                | 137B | 137C | 137D | 137E |      |      |             |
|                         | 140A                | 140B | 140C | 140D | 140E |      |      |             |
| 14                      | 14A                 | 14B  | 14C  |      |      |      |      | 1150        |
|                         | 16A                 | 16B  | 16C  | 16D  | 16E  |      |      |             |
| 17                      | 17A                 |      | 17C  | 17D  | 17E  | 17F  |      | 459         |
|                         |                     |      |      |      |      |      | 198G |             |
|                         | 20A                 |      |      |      |      |      |      |             |
| 19                      | 19A                 | 19B  | 19C  | 19D  | 19E  |      |      | 1663        |
|                         | 22A                 | 22B  | 22C  | 22D  | 22E  |      |      |             |
| 25                      | 25A                 | 25B  | 25C  | 25D  | 25E  | 25F  |      | 1667        |
|                         | 198A                | 198B | 198C | 198D | 198E | 198F |      |             |
| 28                      | 28A                 | 28B  | 28C  | 28D  | 28E  |      |      | 1600        |
|                         | 155A                | 155B | 155C | 155D | 155E | 155F |      |             |
|                         |                     |      | 09C  |      |      |      |      |             |
| 31                      | 31A                 | 31B  | 31C  | 31D  | 31E  |      |      | 1431        |
|                         | 159A                | 159B | 159C | 159D | 159E | 159F |      |             |
| 33                      | 33A                 |      |      | 33D  | 33E  |      |      | 2351        |
|                         | 40A                 | 40B  | 40C  | 40D  |      |      |      |             |
|                         | 161A                | 161B | 161C | 161D | 161E | 161F |      |             |
|                         | 184A                | 184B |      | 184D | 184E |      |      |             |
| 42                      | 42A                 |      |      | 42D  | 42E  | 42F  | 42G  | 1241        |
|                         |                     |      |      | 11D  |      |      |      |             |
|                         | 18A                 | 18B  |      |      |      |      |      |             |
| 132                     | 132A                | 132B | 132C | 132D | 132E | 132F |      | 946         |
| 134                     | 134A                | 134B | 134C | 134D | 134E |      |      | 803         |
| 135                     | 135A                | 135B | 135C | 135D | 135E |      |      | 1306        |

# Precinct Consolidation for City of Burbank 2013 Municipal Elections

|     |      |      |      |      |      |      |      |      |
|-----|------|------|------|------|------|------|------|------|
|     | 136A | 136B | 136C | 136D |      |      |      |      |
| 138 | 138A | 138B | 138C | 138D | 138E | 138F | 138G | 1614 |
|     | 139A | 139B | 139C | 139D | 139E | 139F | 139G |      |
| 141 | 141A | 141B | 141C | 141D | 141E |      |      | 813  |
| 142 | 142A | 142B | 142C | 142D | 142E |      |      | 1613 |
|     | 144A | 144B | 144C |      | 144D | 144E |      |      |
| 146 | 146A | 146B | 146C | 146D | 146E |      |      | 1666 |
|     | 148A | 148B | 148C | 148D |      |      |      |      |
| 149 | 149A | 149B | 149C | 149D | 149E | 149F |      | 852  |
| 150 | 150A | 150B | 150C | 150D | 150E | 150F | 150G | 917  |
| 154 | 154A | 154B | 154C | 154D | 154E | 154F |      | 1827 |
|     | 157A | 157B | 157C | 157D | 157E |      |      |      |
| 158 | 158A | 158B | 158C | 158D | 158E | 158F | 158G | 1895 |
|     | 160A | 160B | 160C | 160D | 160E | 160F |      |      |
| 162 | 162A | 162B | 162C | 162D | 162E | 162F |      | 968  |
| 163 | 163A | 163B | 163C | 163D | 163E | 163F |      | 949  |
| 166 | 166A | 166B | 166C | 166D | 166E |      |      | 1604 |
|     | 175A | 175B | 175C | 175D |      |      |      |      |
| 176 | 34A  |      |      |      |      |      |      | 2182 |
|     | 35A  | 35B  | 35C  | 35D  |      |      |      |      |
|     | 176A |      |      | 176D | 176E |      |      |      |
|     | 178A | 178B | 178C | 178D |      |      |      |      |
|     | 197A | 197B | 197C | 197D |      |      |      |      |
| 177 | 177A | 177B | 177C | 177D | 177E | 177F | 177G | 896  |
| 179 | 36A  | 36B  |      |      |      |      |      | 1715 |
|     | 179A | 179C | 179D |      |      |      |      |      |
|     | 194A | 194B | 194C | 194D | 194E |      |      |      |
| 180 | 180A | 180B | 180C | 180D | 180E | 180F |      | 942  |
| 181 | 134F |      |      |      |      |      |      | 977  |
|     | 181A |      | 181C | 181D | 181E | 181F | 181G |      |
| 182 | 182A | 182B | 182C | 182D |      |      |      | 1492 |
|     | 190A | 190B | 190C | 190D | 190E | 190F |      |      |
| 186 | 37A  |      |      |      |      |      |      | 1166 |
|     | 186A |      | 186C | 186D | 186E | 186F | 186G |      |
| 187 | 38A  | 38B  |      |      |      |      |      | 1382 |
|     | 39A  | 39B  |      |      |      |      |      |      |
|     | 187A | 187B |      |      | 187E | 187F | 187G |      |
|     | 189A |      |      |      | 189E |      |      |      |
| 191 |      | 189B |      |      |      | 189F |      | 1298 |
|     | 191A | 191B | 191C | 191D | 191E |      |      |      |
| 193 | 193A | 193B | 193C | 193D | 193E |      |      | 936  |

ATTEST:

DATE:

9-28-12



City Clerk

City of Burbank, California

RESOLUTION NO. 28,567

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO PERMIT THE REGISTRAR OF VOTERS TO RENDER ELECTION SERVICES TO THE CITY OF BURBANK RELATING TO THE PRIMARY NOMINATING AND GENERAL MUNICIPAL ELECTIONS TO BE HELD ON FEBRUARY 26, 2013 AND APRIL 9, 2013.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. A Primary Nominating Election will be conducted in the City of Burbank on February 26, 2013 and a General Municipal Election will be conducted in the City of Burbank on April 9, 2013.

B. It is necessary to mail sample ballots and other materials required by law to the registered voters of the City as well as to perform various other acts required by law.

C. To facilitate this procedure, the Registrar of Voters of the County of Los Angeles will be requested to make available the listing of names and addresses of the City's registered voters, as well as perform various other services required by law.

D. The City of Burbank would pay all necessary expenses for their performance of this service as well as such other services as the City may require.

THE COUNCIL OF THE CITY OF BURBANK RESOLVES:

1. In accordance with Section 10002 of the State of California Elections Code, the Board of Supervisors of the County of Los Angeles is requested to permit the Registrar of Voters to provide computer tapes for preparation of sample ballots for mailing in connection with the Primary Nominating Election to be conducted in the City of Burbank on February 26, 2013 and the General Municipal Election will be conducted in the City of Burbank on April 9, 2013, as well as to perform various other services required by law on behalf of the City of Burbank and such additional services as may be requested by the City Clerk.

2. The City shall reimburse the County of Los Angeles for any and all such services performed upon the presentation of an invoice to the City Clerk.

3. The City Clerk is directed to transmit a certified copy of this resolution to the Board of Supervisors and the Registrar of Voters of the County of Los Angeles.

PASSED and ADOPTED this 25th day of September, 2012.

  
Dave Golonski  
Mayor of the City of Burbank

Attest:

  
Zizette Mullins  
City Clerk

Approved as to Form and Legal Content  
Office of the City Attorney

  
By: Amy Albano, City Attorney

STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF BURBANK             )

I, Zizette Mullins, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 25th day of September, 2012, by the following vote:

AYES:       Council Members Bric, Gabel-Luddy, Gordon, Talamantes and Golonski.

NOES:       Council Members None.

ABSENT:     Council Members None.

  
Zizette Mullins  
City Clerk



Eff.: 10/2/12

ORDINANCE NO. 3832

ATTEST: *[Signature]*  
DATE: 10-5-12  
City Clerk  
City of Burbank, California

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
BURBANK ORDERING A PRIMARY NOMINATING  
ELECTION ON FEBRUARY 26, 2013 AND ORDERING A  
GENERAL MUNICIPAL ELECTION ON APRIL 9, 2013.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN:

1. It is ordered that a Primary Nominating Election be held on Tuesday, the twenty-sixth day of February 2013, to nominate candidates for election, or to elect candidates for terms of four years to the following elective offices of the City:

a. Three offices of Council Member, succeeding Council Members Dave Golonski, David Gordon and Jess Talamantes, whose terms expire April 30, 2013;

b. Two offices of Member of the Board of Education, succeeding Board Member Larry Applebaum and Appointed Board Member John Dilibert, whose terms expire on April 30, 2013;

c. One office of City Clerk, succeeding Appointed City Clerk Zizette Mullins, whose term expires on April 30, 2013; and,

d. One office of City Treasurer, succeeding Appointed City Treasurer Debbie Kukta, whose term expires on April 30, 2013.

2. It is further ordered that a General Municipal Election shall be held on Tuesday, the ninth day of April 2013, if such election is necessary, to elect to the offices of Council Member and Member of the Board of Education, any candidates nominated at the Primary Nominating Election.

3. There are established for the conduct of said elections forty-two (42) election precincts as set forth in Resolution No. 28,566 adopted September 25, 2012, consisting of the regular election precincts established for holding the last general statewide election consolidated as shown in said Resolution.

4. The City Clerk shall publish not later than twenty (20) days prior to the Primary Nominating Election and General Municipal Election a list of said election precincts, the designated ballot drop-off locations or polling places for each precinct and the election officers for each ballot drop-off location or precinct.

5. The City Clerk shall post one copy of each such list in the lobby of the Burbank Water and Power Department Building, in the City Hall upon the bulletin board near the main entrance, and in the Office of the City Clerk, and the list shall remain so posted until the day following each such election.

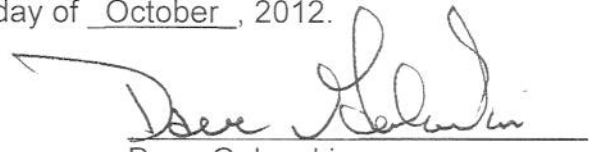


6. Said elections shall be conducted in accordance with the Charter and Elections Code of the City of Burbank, and in compliance with the requirements of the Constitution and the Elections Code of the State of California insofar as applicable.


7. This Ordinance shall be introduced, passed, and adopted at one and the same meeting and shall become effective immediately upon adoption.

8. The City Clerk shall certify to the passage of this Ordinance and cause the same to be published once in a newspaper of general circulation.


PASSED AND ADOPTED this 2nd day of October, 2012.

  
Dave Golonski  
Mayor of the City of Burbank

Attest:

  
Zizette Mullins, City Clerk

Approved as to Form  
Office of the City Attorney

By:   
Amy Albano, City Attorney

STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF BURBANK             )

I, Zizette Mullins, City Clerk, do hereby certify that the foregoing Ordinance No. 3832 duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 2<sup>nd</sup> day of October 2012, by the following vote:

AYES: Council Members Bric, Gabel-Luddy, Gordon, Talamantes and Golonski.

NOES: Council Members None.

ABSENT: Council Members None.

I further certify that said Ordinance was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 10th day of October, 2012.



Zizette Mullins, City Clerk

ATTEST:

DATE: 10-5-12

  
City Clerk  
City of Burbank, California

Eff.:9/25/12

ORDINANCE NO. 3831

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ORDERING A SPECIAL ELECTION TO BE HELD IN CONJUNCTION WITH THE GENERAL MUNICIPAL ELECTION ON APRIL 9, 2013, FOR THE PURPOSE OF SUBMITTING A BALLOT MEASURE TO THE VOTERS REGARDING ADOPTION OF AN ORDINANCE TO LEVY A SPECIAL TAX TO SUPPORT THE SEWER FUND ASSISTANCE PROGRAM AND THE REFUSE ASSISTANCE PROGRAM.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. Pursuant to Chapter 1 of Title 8 of the Burbank Municipal Code ("Sewer Ordinance"), the City of Burbank ("City") maintains and operates a sanitary sewer system for the benefit and convenience of the Burbank Community and for the protection of the public health, safety and welfare; and

B. Pursuant to Article 7 of the Sewer Ordinance, the City imposes a sewer service charge in an amount established annually by the City Council in the Burbank Fee Resolution and which is collected on the monthly municipal services bill rendered by Burbank Water and Power ("BWP"); and

C. Since 1986 the City has had a Sewer Fund Assistance Program in which eligible low-income residents and senior citizens receive a discount on the sewer service charge subject to the same rules and requirements that apply to BWP's Lifeline Program; and

D. Pursuant to Chapter 2 of Title 4 of the Burbank Municipal Code ("Refuse Collection Ordinance"), the City maintains and operates a solid waste collection enterprise to manage the collection, removal, recycling and disposal of garbage, solid waste, green waste and recyclable materials for the benefit and convenience of the Burbank Community and for the protection of the public health, safety and welfare; and

E. Pursuant to Article 1 of the Refuse Collection Ordinance, the City imposes fees and charges for collection and disposal of garbage, solid waste, green waste and recyclable materials by the City in an amount established annually by the City Council in the Burbank Fee Resolution and which, like the sewer service charge, is collected on the monthly municipal services bill rendered by BWP; and

F. Since 1989 the City has had a Refuse Assistance Program in which eligible low-income residents and senior citizens receive a discount on the fees and charges for solid waste collection services subject to the same rules and requirements that apply to BWP's Lifeline Program; and



4. The procedure for voting for or against the proposed Special Tax Ordinance shall be the procedure provided by or pursuant to law for voting upon measures at a general municipal election. In all particulars not herein set forth, the vote on this proposed municipal code amendment shall be held and conducted as provided by the Charter and Election Code of the City of Burbank. The Constitution and Elections Code of the State of California shall apply only insofar as required by law.

5. The City Clerk shall cause copies of the proposed measure to be printed in convenient pamphlet form and cause copies thereof to be mailed to each of the qualified electors of the City of Burbank no less than 21 days before the election.

6. The City Attorney's impartial analysis and written arguments for and against the proposed measure shall be prepared in accordance with the Charter and Election Code of the City of Burbank.

7. Section 9285(a) of the California Elections Code, providing for the filing of rebuttal arguments, is hereby adopted and shall apply to the special election ordered herein.

8. This ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately upon the publication thereof as provided in Section 500 of the Burbank City Charter.

9. The City Clerk shall certify to the passage of this ordinance and cause this ordinance to be published in the manner prescribed by law.

PASSED and ADOPTED this 25th day of September, 2012.



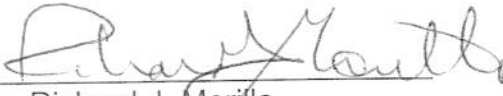
Dave Golonski  
Mayor of the City of Burbank

Attest:



Zizette Mullins, City Clerk

Approved as to Form  
Office of the City Attorney

By:   
Richard J. Morillo  
Senior Assistant City Attorney

STATE OF CALIFORNIA       }  
CITY OF BURBANK            }  
COUNTY OF LOS ANGELES   }       ss.

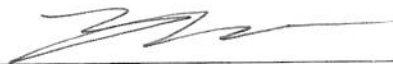
I, Zizette Mullins, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 3831 was duly and regularly introduced, passed and adopted by the Council of the City of Burbank at its regular meeting held on the 25th day of September, 2012, by the following vote:

AYES:       Council Members Bric, Gabel-Luddy, Talamantes and Golonski.

NOES:       Council Member Gordon.

ABSENT:     Council Members None.

I further certify that said Ordinance was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 6th day of October, 2012.

  
\_\_\_\_\_  
Zizette Mullins, City Clerk

2871

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE PEOPLE OF THE CITY OF  
BURBANK, CALIFORNIA, ADDING ARTICLE 21 TO  
CHAPTER 4, TITLE 2 OF THE BURBANK MUNICIPAL CODE  
TO ESTABLISH A SPECIAL TAX TO SUPPORT THE SEWER  
FUND ASSISTANCE PROGRAM AND THE REFUSE  
ASSISTANCE PROGRAM.

THE PEOPLE OF THE CITY OF BURBANK, CALIFORNIA, DO ORDAIN AS FOLLOWS:

**SECTION 1.** Article 21 is hereby added to Chapter 4, Title 2 of the Burbank Municipal Code in to read as follows:

**ARTICLE 21.**

**SPECIAL TAX TO SUPPORT SEWER FUND  
AND REFUSE ASSISTANCE PROGRAMS**

**2-4-2101: STATEMENT OF PURPOSE.**

The purpose of this article to establish is special tax on fees and charges for sewer service and refuse collection service, the proceeds of which will be used exclusively to maintain funding for the City of Burbank's Sewer Fund Assistance Program and the Refuse Assistance Program that provide reduced rates for eligible low-income customers who are seniors over 62 years of age, persons with a permanent disability, persons requiring life support, or persons with a disabled person or person requiring life support in their household.

**2-4-2102: DEFINITIONS.**

Except where the context otherwise requires, the definitions given in this section govern the construction of this Article:

A. **CHARGES or FEES AND CHARGES** means, in the case of solid waste collection, fees and charges for the collection and disposal of garbage, solid waste, green waste, and recyclable material by the City established pursuant to Section 4-2-114 of this Code, and further means, in the case of sewer service, fees and charges established pursuant to Article 7 of Title 8, Chapter 1 of this Code.

B. **CITY** means the City of Burbank.

C. **PERSON** means without limitation, any natural individual, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, joint power authority, limited liability company, corporation (including foreign, domestic, and nonprofit), municipal district or municipal corporation (other than the City)

**ATTACHMENT 1**

**Page 1**



cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

D. REFUSE ASSISTANCE PROGRAM means a program for reducing fees and charges for refuse service for the benefit of eligible low-income customers who are seniors over 62 years of age, persons with a permanent disability, persons requiring life support, or persons with a disabled person or person requiring life support in their household, as presently implemented in the City or as may be codified in the future.

E. REFUSE SERVICE means, for purposes of this Article, the collection and disposal of garbage, solid waste, green waste, and recyclable material by the City pursuant to Chapter 2 of Title 4 of this Code.

F. SEWER FUND ASSISTANCE PROGRAM means a program for reducing fees and charges for sewer service for the benefit of eligible low-income customers who are seniors over 62 years of age, persons with a permanent disability, persons requiring life support, or persons with a disabled person or person requiring life support in their household as provided for in section 8-1-704 of this Code.

G. SEWER SERVICE means, for purposes of this Article, the collection, treatment and disposal of wastewater of the community by means of the City's sanitary sewer system pursuant to Chapter 1 of Title 8 of this Code.

H. TAX ADMINISTRATOR means the City's Financial Services Director, or his or her designee, or such other City official so designated by resolution of the City Council.

#### **2-4-2103: SEWER SERVICE TAX.**

A. There is hereby imposed a tax on every person using sewer service provided by the City. The tax imposed by this Section shall be determined and set from time to time by resolution of the City Council at a rate not exceeding two (2%) percent of the fees and charges for such service.

B. The tax imposed by this Section shall be collected at the same time and in the same manner as fees and charges for sewer service under Sections 4-2-116 and 4-2-117 of this Code.

C. The proceeds of the tax imposed by this Section shall be used exclusively to fund the Sewer Fund Assistance Program.

#### **2-4-2104: REFUSE SERVICE TAX.**

A. There is hereby imposed a tax on every person using refuse service provided by the City. The tax imposed by this Section shall be determined and set from time to time by resolution of the City Council at a rate not exceeding two (2%) percent of the fees and charges for such service.

B. The tax imposed by this Section shall be collected at the same time and in the same manner as fees and charges for refuse service under Sections 8-1-705 and 8-1-706 of this Code.

C. The proceeds of the tax imposed by this Section shall be used exclusively to fund the Refuse Assistance Program.

**2-4-2105: DEFICIENCY DETERMINATION AND ASSESSMENT; TAX APPLICATION ERRORS.**

A. The Tax Administrator shall make a deficiency determination if he or she determines that any person required to pay any tax imposed by this Article has failed to pay the proper amount of tax. Nothing herein shall require that the Tax Administrator institute proceedings under this section if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

B. The Tax Administrator shall mail a notice of such deficiency determination to the person required to pay the tax, which notice shall refer briefly to the amount of the taxes owed, plus interest at the rate of three-quarters of one percent ( $3/4\%$ ) per month, or any fraction thereof, on the amount of the tax from the date on which the tax should have been received by the City. Within fourteen (14) calendar days after the date of service of such notice, the person may make a request in writing to the Tax Administrator for a hearing on the matter. If the person fails to request a hearing within the prescribed time period, the amount of the deficiency determination shall become a final assessment, and shall immediately be due and owing to the City.

C. If the person or entity allegedly owing the tax fails to request a hearing within the prescribed time period, the amount of the deficiency determination shall become a final assessment, and shall immediately be due and owing to the City. If the person requests a hearing, the Tax Administrator shall cause the matter to be set for hearing, which shall be held within thirty (30) days after receipt of the written request for hearing. Notice of the time and place of the hearing shall be mailed by the Tax Administrator to such person at least ten (10) calendar days prior to the hearing, and, if the Tax Administrator desires said person to produce specific records at such hearing, such notice may designate the records requested to be produced.

D. At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence, including that of any other interested parties. At the discretion of the Tax Administrator, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall issue a final assessment (or non-assessment), thereafter, by confirming, modifying or rejecting the original deficiency determination, and shall mail a copy of such final assessment to person owing the tax. The decision of the Tax Administrator may be appealed pursuant to Section 2-4-2110 of this Code. Filing a request for a hearing with the Tax Administrator and appeal to the City Manager pursuant to Section 2-4-2110 of this Code is a prerequisite to a suit thereon.

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E. Payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30th) day following the date of receipt of the notice of final assessment. The penalty for delinquency shall be fifteen percent (15%) on the total amount of the assessment, along with interest at the rate of three-quarters of one percent (3/4%) per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid. The applicable statute of limitations regarding a claim by the City seeking payment of a tax assessed under this section shall commence from the date of delinquency as provided in this subsection.

F. All notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.

#### **2-4-2106: NONPAYING SERVICE USERS.**

A. In addition to the tax owed, the nonpaying service user shall pay a delinquency penalty at the rate of fifteen percent (15%) of the total tax that is owed, and shall pay interest at the rate of three-quarters of one percent (3/4%) per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the due date, until paid.

B. The Tax Administrator shall notify the nonpaying service user that the Tax Administrator has assumed the responsibility to collect the taxes due for the stated periods and demand payment of such taxes, including penalties and interest. The notice shall be served on the service user by personal delivery or by deposit of the notice in the United States mail, postage prepaid, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have a change of address, to his or her last known address.

C. If the service user fails to remit the tax to the Tax Administrator within thirty (30) days from the date of the service of the notice upon him or her, the Tax Administrator may impose an additional penalty of fifteen percent (15%) of the amount of the total tax that is owed.

#### **2-4-2107: ACTIONS TO COLLECT.**

Any tax required to be paid by a service user under the provisions of this Article shall be deemed a debt owed by the service user to the City. Any person owing money to the City under the provisions of this Article shall be liable in an action brought in the name of the City for the recovery of such amount, including penalties and interest as provided for in this Article, along with any collection costs incurred by the City as a result of the person's noncompliance with this article, including, but not limited to, reasonable attorney fees.

#### **2-4-2108: ADDITIONAL POWERS AND DUTIES OF THE TAX COLLECTOR.**

A. The Tax Administrator shall have the power and duty, and is hereby directed, to enforce each and all of the provisions of this Article.

B. The Tax Administrator may adopt administrative rules and regulations not inconsistent with provisions of this Article for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. A copy of such administrative rules and regulations shall be on file in the Tax Administrator's office. To the extent that the Tax Administrator determines that the tax imposed under this Article shall not be collected in full for any period of time from any particular service user, that determination shall be considered an exercise of the Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code Section 53750 or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of Government Code Section 53750, and the City does not waive or abrogate its ability to impose the utility users' tax in full as a result of promulgating administrative rulings or entering into agreements.

C. The Tax Administrator may conduct an audit, to ensure proper compliance with the requirements of this Article, of any person required to collect and/or remit a tax pursuant to this Article. The Tax Administrator shall notify said person of the initiation of an audit in writing. In the absence of fraud or other intentional misconduct, the audit period of review shall not exceed a period of three (3) years next preceding the date of receipt of the written notice by said person from the Tax Administrator. Upon completion of the audit, the Tax Administrator may make a deficiency determination pursuant to Section 2-4-2105 of this Code for all taxes, penalties and interest owed and not paid, as evidenced by information provided by such person to the Tax Administrator. If said person is unable or unwilling to provide sufficient records to enable the Tax Administrator to verify compliance with this article, the Tax Administrator is authorized to make a reasonable estimate of the deficiency. Said reasonable estimate shall be entitled to a rebuttable presumption of correctness.

D. The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from, or a refund of, the tax imposed by this article.

E. The Tax Administrator, with the written approval of the City Attorney, may compromise a claim pursuant to this article where the portion of the claim proposed to be released is less than the amount set by separate resolution of the City Council relating to the settlement of general liability claims against the City, and, with the approval of the City Attorney and the City Council, may compromise such a claim where the portion proposed to be released is equal to or greater than the amount set by separate resolution of the City Council relating to the settlement of general liability claims against the City.

F. Notwithstanding any provision in this article to the contrary, the Tax Administrator may waive any penalty or interest imposed upon a person required to collect and/or remit for failure to collect the tax imposed by this article if the non-collection occurred in good faith. In determining whether the non-collection was in good faith, the Tax Administrator shall take into consideration industry practice or other precedence.



## **2-4-1119: REFUNDS.**

Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Article, it may be refunded as provided in this Section:

A. The Tax Administrator may refund any tax that has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Article from a service user or service supplier, provided that no refund shall be paid under the provisions of this section unless the claimant or his or her guardian, conservator, executor, or administrator has submitted a written claim to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto.

B. All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. In addition, all claims shall contain the information required by California Government Code Section 910. The foregoing reference to Government Code Section 910 shall not be construed to authorize a class claim or a representative claim, and no claim may be filed on behalf of another person or a class of persons unless verified by such other person(s) and each member of any purported class.

C. The submission of a written claim, which is acted upon by the City Council, shall be a prerequisite to a suit thereon and no such action may be maintained by a person who has not complied with the requirements of subsection (B) of this Section. The City Council shall act upon the refund claim within the time period set forth in Government Code Section 912.4. If the City Council fails or refuses to act on a refund claim within the time prescribed by Government Section 912.4, the claim shall be deemed to have been rejected by the City Council on the last day of the period within which the City Council was required to act upon the claim as provided in Government Code Section 912.4. It is the intent of the City Council that the one year written claim requirement of this subsection be given retroactive effect; provided, however, that any claims which arose prior to the commencement of the one year claims period of this subsection, and which are not otherwise barred by a then applicable statute of limitations or claims procedure, must be filed with the Tax Administrator as provided in this subsection within ninety (90) days following the effective date hereof.

## **2-4-2110: APPEALS.**

A. The provisions of this section apply to any decision (other than a decision relating to a refund pursuant to Section 2-4-2109 of this Code), deficiency determination, assessment, or administrative ruling of the Tax Administrator. Any person aggrieved by any decision (other than a decision relating to a refund pursuant to Section 2-4-2109 of this Code), deficiency determination, assessment, or administrative ruling of the Tax Administrator, shall be required to comply with the appeals procedure of this section. Compliance with this section shall be a prerequisite to a suit thereon. Nothing herein shall permit the filing of an appeal on behalf of a class or group of taxpayers.

B. If any person is aggrieved by any decision (other than a decision relating to a refund pursuant to Section 2-4-2109 of this Code), deficiency determination, assessment, or administrative ruling of the Tax Administrator; he or she may appeal to the City Manager by filing a notice of appeal with the City Clerk within fourteen (14) days of the date of the decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator which aggrieved the service user or service supplier.

C. The matter shall be set for hearing no more than thirty (30) days from the receipt of the appeal. The appellant shall be served with notice of the time and place of the hearing, as well as any relevant materials, at least five (5) calendar days prior to the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the Tax Administrator, the City Manager, and any other interested person may present such relevant evidence as he or she may have relating to the determination from which the appeal is taken.

D. Based upon the submission of such evidence and the review of the City's files, the City Manager shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within fourteen (14) days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within ninety (90) days from the date of the decision in accordance with Code of Civil Procedure Section 1094.6. If the City Manager fails or refuses to act on a refund claim within the fourteen (14) day period, the claim shall be deemed to have been rejected by the City Manager on the fourteenth day.

E. All notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the third (3rd) calendar day following the date of mailing, as established by a proof of mailing.

#### **2-4-2111: NO INJUNCTION/WRIT OF MANDATE.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this article of any tax or any amount of tax required to be collected and/or remitted.

#### **2-4-2112: REMEDIES CUMULATIVE.**

All remedies and penalties prescribed by this article or which are available under any other provision of law or equity, including, but not limited to, the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Article.

## **2-4-2113: FUTURE AMENDMENT OR RECODIFICATION OF CITED STATUTE, REGULATION OR MUNICIPAL CODE PROVISION.**

A. Unless specifically provided otherwise, any reference to a state or federal statute or regulation or any provision of this Code in this Article shall mean such statute or Code provision as it is now written or as it may be amended or recodified from time to time, provided that such reference to a statute or code provision herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a City, state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease (as a result of excluding all or a part of a utility service, or charge therefore, from taxation). Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute or Code provision (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute or Code provision (or new interpretation) shall be applicable to the maximum possible extent.

B. To the extent that the City's authorization to collect or impose any tax imposed under this Article is expanded or limited as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.

**SECTION 2. Effective Date.** This Ordinance shall be deemed adopted upon the date that the vote is declared by the City Council and shall go into effect ten (10) days after that date, as provided in section 9217 of the California Elections Code.

**SECTION 3. Amendment or Repeal.** Article 21 of Chapter 4, Title 2 of the Burbank Municipal Code, as enacted by this Ordinance, may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIIC of the California Constitution, voter approval shall be required for any amendment that would impose a new tax or increase the rate of any existing tax levied pursuant to this Ordinance. The People of the City of Burbank affirm that the following actions shall not constitute an increase of the rate of a tax:

1. The restoration of the rate of the tax to a rate that is no higher than that set by this Ordinance, if the City Council has acted to reduce the rate of the tax;
2. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Ordinance.



3. The establishment of a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this Ordinance); and

4. The collection of the tax imposed by this Ordinance, even if the City had, for some period of time, failed to collect the tax.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declares that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

**SECTION 5. Execution.** The Mayor of the City of Burbank shall sign this Ordinance where indicated below as evidence of its adoption by the voters of the City, and the City Clerk shall attest.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney